

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

Criminal Appeal No.128 of 2006

 Office Notes, Office Memoranda of Coram, :
 Appearances, Court's orders or directions : Court's or Judge's orders
 and Registrar's orders.

Mr. J.A. Anthony, Advocate for the appellant,
 Mr. J.B. Jaiswal, APP for the respondent/State.

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Coram : K. J. ROHEE, J

Dated : 18th AUGUST, 2006

1. Heard the learned counsel for the appellant and the learned APP for the respondent/State.
2. The appellant stood surety for the accused in Sessions Trial No.266/2002 pending before 7th Ad-hoc Assistant Sessions Judge, Nagpur. The accused jumped out the bail and remained absent. Hence show cause notice was issued to the appellant as to why the bond executed by him should not be forfeited. The appellant failed to remain present before the Court on one or the other pretext. Ultimately non-bailable warrant was required to be issued against him and he was brought before the Court. After he was produced before the Court the Court passed order on 4/3/2006 forfeiting the surety bond and sending the appellant to civil imprisonment

under section 446 of Cr.P.C. for a period of three months or till deposit of forfeited amount of Rs. 30,000/-.

3. Mr. Anthony, the learned counsel for the appellant, submitted that after the appellant was produced before the Court no opportunity of hearing was given to him. He further submitted that the appellant is ready to search for the accused and to produce him before the Court. In view of this it is found necessary that the trial court should first hear the appellant and then pass necessary orders. On this background the impugned order cannot be sustained and will have to be quashed and set aside. Hence the order :

4. The order dated 4/3/2006 is hereby quashed and set aside. The matter is remanded back to the trial court for giving hearing to the appellant and for passing necessary orders as it may deem fit. The criminal appeal is disposed of.

5. Copy of this order be supplied to the parties on payment of usual copying charges.

JUDGE

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